

Punjab-Haryana High Court

Punjab-Haryana High Court

Fiem Industries Limited vs State Information Commission ... on 18 December, 2013

CWP No. 27805 of 2013 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 27805 of 2013

Date of Decision: 18.12.2013

FIEM Industries LimitedPetitioner

versus

State Information Commission, Haryana

and others Respondents

CORAM: Hon'ble Mr. Justice Ajay Tewari

Present: Mr. H.C.Arora, Advocate for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Ajay Tewari, J. (Oral):

By this petition the petitioner has challenged the order of the State Information Commission whereby the Public Information Officer had been directed to furnish the information sought by respondent No.5.

Learned counsel has raised two arguments. The first is that the applicant viz. respondent No.5 is closely related to respondent No.2 and it was the respondent No.2 who had made the offer before the Commission because of their relation. The second argument is that the information sought related to the petitioner and was exempted under Section 8(1)(j) of the Right to Information Act (hereinafter referred to as the ' RTI Act').

Taking the second point first, the one fact which becomes clear

is that on the date when the case was decided, the representative of the petitioner chose not to appear and voiced his opposition to the disclosure of information. The Commission even on the previous date had prima facie Nagpal Sunita

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noticed was that there was not much ground in the argument of the representative of the petitioner but had still given him one more opportunity to prepare better. On the adjourned date the representative of the petitioner, as mentioned above, did not appear. Thereafter the Commission chose to consider the matter and held independently that the information sought viz. the details of a raid conducted on the petitioner by the VAT authorities, was in the larger public interest and, therefore, the provisions of Section 8(1)(j) would not come to the aid of the petitioner.

Having gone through the application filed by respondent No.5,
I find that he has sought information regarding alleged tax evasions by various companies including the petitioner company. Learned counsel has placed reliance on a judgment of the Delhi High Court in Ashok Kumar Goel v. Public Information Officer VAT Ward No. 64 and another, LPA No. 190/2012 decided on 07.03.2012 where a person had sought information regarding the tax returns and it was in those circumstances that the Hon'ble Delhi High Court had held that there was no larger public interest involved. The present is not a case where the tax returns are being sought but a case where details of tax evasions (if any) are being sought. In my considered opinion the information sought in the present case is

qualitatively different from the information sought in the case before the

Delhi High Court. Likewise learned counsel relied upon the judgment of the

Hon'ble Supreme Court in SLP(Civil) No. 27734 of 2012 Girish

Ramchandra Deshpande v. Central Information Commissioner and

others, decided on 3.10.2012. In that case the petitioner had sought

personal information regarding an officer out of which some was given but

some was not provided. The Hon'ble Supreme Court held as follows:- Nagpal Sunita

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"12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the above-mentioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

14. The details disclosed by a person in his income tax Nagpal Sunita

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returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

15. The petitioner in the instant case has not made a bona fide public interest in seeking information, the disclosure of such information would cause unwarranted invasion of privacy of the individual under Section 8(1)(j) of the RTI Act.

16. We are, therefore, of the view that the petitioner has not succeeded in establishing that the information sought for is for the larger public interest. That being the fact, we are not inclined to entertain this special leave petition. Hence, the same is dismissed."

To my mind that judgment would also not be strictly applicable to the facts of the present case for the simple reason that in the present case the petitioner never appeared before the State Information Commissioner to oppose the request despite a specific opportunity having been granted to him. In the circumstances, at least for the purpose of the present case the petitioner cannot now be heard to claim that information was wrongly provided to respondent No.5.

As regards the first point, since I have held that the Commission had given independent reasons for granting the information, the fact that there is a close relation ship between respondents No. 2 and 5 would be hardly germane.

Consequently the petition is dismissed.

(AJAY TEWARI)

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JUDGE

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